

September 30, 2010
UNITED STATES COURT OF APPEALS
Elisabeth A. Shumaker
FOR THE TENTH CIRCUIT Clerk of Court

In re:

ANTHONY DEMBRY,

Movant.

No. 10-1426

ORDER

Before **LUCERO, MURPHY, and TYMKOVICH**, Circuit Judges.

Anthony Dembry unsuccessfully pursued habeas relief under 28 U.S.C. § 2254 from his Colorado convictions for reckless endangerment, sexual assault on a child, and sexual assault on a child by one in a position of trust. *See Dembry v. Abbott*, 227 F. App'x 744, 747 (10th Cir. 2007) (denying a certificate of appealability). Thus, he is required to gain this court's authorization before he can file another § 2254 motion in federal district court. *See* 28 U.S.C. § 2244(b). He has moved for such authorization, asserting that he wishes to bring claims of ineffective assistance of counsel because his attorney failed to use an investigator, interview witnesses, present witnesses at trial and sentencing, present affirmative defenses, and present alternative suspects.

This court may only grant authorization if Mr. Dembry makes a prima face showing of (A) "a new rule of constitutional law, made retroactive to cases on

collateral review by the Supreme Court, that was previously unavailable” or (B) facts that “could not have been discovered previously through the exercise of due diligence . . . [and that] would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found [him] guilty of the underlying offense.” *Id.* § 2244(b)(2). Mr. Dembry admits that his claims do not involve newly discovered evidence. *See* Mot. at 6. But he asserts that his claims may “[p]ossibly” rely on new law because “[t]here may have been some new law [e]nacted to present.” *Id.* This unelaborated suggestion falls far short of a *prima facie* showing that § 2244(b)(2)(A) is satisfied. When a *pro se* party fails to cite supporting authority, we will not conduct the necessary legal research. *See Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 841 (10th Cir. 2005).

The motion for authorization is DENIED. This denial of authorization is not appealable and “shall not be the subject of a petition for rehearing or for a writ of certiorari.” 28 U.S.C. § 2244(b)(3)(E).

Entered for the Court,

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker".

ELISABETH A. SHUMAKER, Clerk